

## REMARKS

### Objection to the Specification under 35 U.S.C. 112:

Claims 6-8 have been rejected under §112 second paragraph for being indefinite. Claims 6-8 have been amended to depend from a non-canceled claim.

Claim 9 has been rejected for recitation of the term "signal." The claim has been amended to further explain the term signal according to the specification on page 12, lines 14-18. Applicants have relied on the term "signal" throughout the application and they are reluctant to change to the terminology "targeting ligand." Therefore, the claim has been amended to include the definition from the specification.

### Rejection of claims under 35 U.S.C. 102:

Claims 1, 3, and 9 are rejected under §102(e) as being anticipated by Hansen, US Pat. No. 5,851,527. Applicants have amended independent claim 1 to obviate the rejection.

Claim 1 has been amended to recite "expressing the polymer." In contrast, the '527 patent describes binding a substrate to its conjugate with a chelator for nuclear imaging. The compound is not expressed.

With the amendment to claim 1 the §102 rejection to claims 1, 3, and 9 is believed to be obviated.

Claims 1, 3-5, and 9 are rejected under §102(e) as being anticipated by Hnatowich *et al.*, US Pat. No. 5,980,861. Applicants have amended independent claim 1 to obviate the rejection.

The '861 patent describes a covalent attachment of a chelator to a polymer for the purpose of chelating radioactive isotopes. The polymer is used as a signal to direct the complex to a tumor site where the radioactive isotopes attempt to destroy the tumor. Conversely, Applicants' provide an electrostatic association of chelator to polymer and then deliver their polymer into a cell where it is expressed.

Claim 1 has been amended to recite polymer expression. Therefore, the §102 rejection to claims 1, 3-5, and 9 is believed to be obviated.

Claims 1 and 3 are rejected under §102(a) or (e) and (f) as being anticipated by Wolff *et al.* U.S. Patent No. 5,693,622.

Wolff *et al.* does not show an association between the chelator and the polymer for delivery as claim 1 has been amended. Therefore, the rejection is believed to be obviated.

On page 6 of the Action, claims 10-13 have been rejected under §102(b) as being anticipated by Pitha *et al.* Applicants have amended claim 10 to recite forming a polymer from chelator monomers for delivery and expression. In contrast, Pitha teaches that a crown ether would inhibit DNA polymerase (p. 291) and interfere with expression. Therefore, Applicants believe the rejection is obviated.

Claims 1, 3, and 9-13 are rejected under §102(b) as being anticipated by Kayyem *et al.*

Applicants have amended claim 1 to recite expressing the polymer *in vivo*. However, Kayyem does not teach *in vivo* expression and, in fact, they use a toxic metallic cation with their chelator. Moreover, Kayyem *et al.* utilize their chelator as a tag for *in vitro* detection which contrasts Applicants' chelator that functions in a process step for *in vivo* delivery.

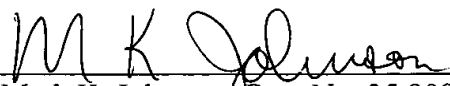
Additionally, independent claim 10 has been amended to recite forming a polymer from chelator monomers. Claim 12 has been amended to recite recharging the polymer. Neither of these aspects were contemplated by Kayyem *et al.*

Rejection of claims under 35 U.S.C. 102:

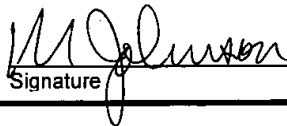
The claims have been rejected under §103(a) for obviousness. The amendments and discussion from the previous sections apply to §103 as well. Applicants submit that the claims, as amended, are not obvious in view of the prior art. The prior art has not taught associating a chelator with a polymer for expression in a cell. Nor has it taught forming a polychelator from chelator monomers, recharging and releasable attachment of the chelator. These distinctions are unique to Applicants' application and separate their processes from those of the prior art.

The Examiner's objections and rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendments and discussion, it is submitted that claims 1, 3-19 should be allowable and Applicants respectfully request an early notice to such effect.

Respectfully submitted,

  
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